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- ART. IV.—1. *Report on the Civil Government of Canada*, 1828.
2. *Petition of the House of Assembly of Lower Canada for a Redress of Grievances*. March, 1834.
3. *Petition (the Second) from the Assembly of Lower Canada*. December, 1834. *With explanatory Remarks* (by H. S. Chapman). March, 1835.
4. *Existing Difficulties of the Government of the Canadas*. By J. A. Roebuck, M.P. 1836.
5. *The last Session of the Provincial Parliament of Lower Canada*. By E. B. O'Callaghan, M.P. April, 1836.
6. *Petition (the third) from the House of Assembly of Lower Canada*. 1836.
7. *Seventh Report of the Committee on Grievances (Upper Canada.)* Toronto. 1835.
8. *Canadiana; or, Sketches of Upper Canada: and the Political Crisis*. By W. B. Wells, Esq., Member of the Parliament of U. C. 1837.
9. *Reports of the Commissioners to Lower Canada*. 1837.
10. *The "Times" Newspaper of the 7th and 9th of March, and April 15th. "Debates on Canada."*

THE Canadian question has more than ordinary claims on the attention of the liberal Irish reader: first, from the great similarity of the evils which pervade the government of

both countries; next, from the vast number of the people of Ireland who not merely seek, but who actually find a home in that colony; and lastly, from the fact, that the dispute involves one of the most interesting and important questions in the science, of government which has ever agitated the public mind—we mean the constitution,—and perhaps even the existence of a second legislative chamber.

The Canadas, like Ireland, have long been handed over to the domination of a cruel and vindictive oligarchy—"a miserable minority"—which would be contemptible without its English bayonets. In Ireland, the ruling few have found sympathy with the imperial government by means of a similarity of religious belief. In Lower Canada, the same end has been attained, with much more advantage to the local oligarchy, by means of a similarity of language. In Ireland, the governed masses differ from their oppressors in religious belief (in language they can scarcely be said to differ any longer), in Canada, the religious difference exists also; but the local oligarchy were not slow to perceive that similarity of religion was a bond of union between two sections of the population, namely, the French Canadians and the Irish,—hence that source of difference was rendered wholly inapplicable to their object, and similarity of language was erected into a source of sympathy with the government, with the hope of entrapping the Irish and Americans to the side of the oligarchy. But the scheme failed. Although religion in the one country, and language in the other, may be, as in fact they are, the bond of sympathetic union between the dominant few and the imperial government; we shall hereafter see that a *desire for self-government* is the only bond which unites the people of all origins in the Canadian provinces.

Impressed then with a sense of the great importance of coming to a right decision on this subject, it is our intention, in the following pages, to examine the character of the civil government of those provinces, to exhibit the present state of popular opinion there, and to ascertain if the remedies demanded by the Canadians be adequate to the removal of the evils complained of, and to the permanent establishment of good government; and lastly, to exhibit the character of the measure lately introduced into the House of Commons by Lord John Russell.

The present Constitutions of Upper and Lower Canada owe their existence to the 31st Geo. III. c. 31, commonly called the "Canadian Constitutional Act."

Previous to passing the act in question, the whole of Canada was comprised in one province, called the "Province of Quebec;" and was governed by a governor and council appointed by the



crown, according to the provisions of the 14th Geo. III. c. 83, called the "Quebec Act."

The changes effected by the 31st Geo. III. c. 31, were, *first*, the division of the province of Quebec into two provinces, of Upper and Lower Canada; the first being inland, and the last towards the sea: and, *second*, the establishment of two constitutions, alleged to be perfect copies or imitations of that which has so often been alleged to be inimitable,—namely, the British Constitution.

According to the Canadian Constitutions thus established, the legislative power is vested in, *first*, a governor, whose assent is necessary to the making a law; and who, contrary to the practice of the mother country, not unfrequently withholds his assent. *Second*: a Legislative Council or Second Chamber, chosen by the crown for life. *Third*: a House of Assembly, which represents the people much more completely than the British House of Commons, as the franchise is sufficiently low to include nearly every male inhabitant of mature age.

The administrative power is vested in the governor, as head of the executive, aided by an executive council, having duties somewhat similar to those of our privy-council; the chief duty being to advise with the governor in all matters where two or more heads are conceived to be better than one.

The judiciary consists of a chief justice and three judges at Quebec, a similar establishment at Montreal; with one judge for the district of Three Rivers, another for St. Francis, and a third for Gaspé. These hold courts of original jurisdiction, from the judgments of which there is an appeal to a higher court, formed of the governor and executive council, with an associated judge, who has not heard the case in the courts below. The judges are all appointed—not during good behaviour—but during the pleasure of the crown; which, in practice, means the pleasure of the local oligarchy, of which they form a part.

From the judgment of this court of appeal, there is a further appeal to the king in council.\*

In order to understand the real nature and operation of the Canadian Constitution, as above briefly described, it is necessary to take a near view of the materials of which the two branches of the legislature are composed. We shall begin with the councils.

If the reader will take the trouble to turn to the debate which

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\* In Upper Canada a court of appeal has never been organised, so that appeals from the decisions of the courts of original jurisdiction, are direct to the king in council.

took place in the House of Commons on the Canadian Constitutional Act—a debate memorable for the quarrel between Burke and Fox—he will find, that the object of the minister, in erecting the legislative councils, was to form an aristocracy in each of the Canadas, so as to make the imitation of the British model as perfect as possible. Mr. Pitt even contemplated the subsequent introduction of hereditary titles,—but this folly (though authorised by the 31st Geo. III. c. 31, sec. 6) has never been attempted. But the formation of an aristocracy in Canada was not so easy a matter. At the time of the passing of the act, there did not exist any materials out of which an aristocracy could be formed; besides which, the social state of the people did not favour the accomplishment of so splendid a design, as the friends of the act appear to have contemplated.

Previous to the conquest, it is possible that materials for the manufacture of a colonial aristocracy might have been found. The seigneurs were for the most part members of the *noblesse* of France, to whom the people looked up with respect; and the Château de St. Louis, at Québec, was filled with scions of the same class, attracted thither by the numerous good things which the mimic court had to bestow. The bar was also on the same aristocratic footing as that of France; and the ecclesiastics were not then as they are now, men drawn from and sympathizing with the masses, but were for the most part importations from the aristocratic Gallican Church.

The mass of the people too, at that time, had not tasted of the sweets of self-government, even of the imperfect and inadequate kind since introduced among them. They had not been called upon to exercise the duties of jurors as they have since been. The business of election was to them wholly unknown. Hence, being ignorant of these things, they had no objection to the existence of a class holding power not derived from themselves.

The first fruit of the conquest was the extinction of this natural aristocracy as some delight to call it; the next was the rendering the people indisposed towards an aristocracy of any kind.

Such of the ancient *noblesse* as had the means, returned soon after the conquest to old France; while such as remained, being no longer preferred to offices of trust and profit about the local government, were compelled to live as best they could upon their country estates. Among the honest, hardy, and cheerful farmers of Lower Canada, we still find names having the aristocratic mark of *de*,—the possessors of which have now nothing to distinguish them from their neighbours; and are, moreover, quite unconscious of their original dignity.



The persons whom the conquest found in power, persons intimately connected with the aristocracy of France, were, as may be imagined, speedily displaced, in order to make room for such of the "king's ancient subjects" as deemed themselves to have a claim upon the first fruits of conquest. There was accordingly a very general dismissal of the incumbents of office, and a substitution of persons drawn from the ranks of the conquerors, to fill the various offices in the country.

"Few of these persons," says a contemporary writer,\* "were of a respectable class in the provinces whence they had emigrated; and their deportment in their new dignity did not much serve to alleviate the grief and chagrin of the discarded French *noblesse*, who felt themselves not less disgraced by their own dismissal, than by the elevation of such men into their seats. There were few or none of these 'ancient subjects' who had landed property in Canada. They had been either suttlers to the troops or Indian traders; and although those who were appointed magistrates now added *Esquire* to their names, they did not think fit to lay aside their former occupations. Indeed, such as were removed to a considerable distance from Quebec, found a way of rendering their magisterial powers useful in their trade; for, as the law was in their own hands, they took the liberty of moulding it to any form that suited their purpose. The Canadians had, in the course of their dealings, contracted debts with these and other traders, expecting to pay in peltry, or the produce of their farms, when the season came round; but, to their utter astonishment, they found themselves cited before the magistrates for the most trifling sums. Condemned to make instant payment, at times when they had no means in their power, and on failure thereof, their persons were arrested, dragged from their farms and families, and committed to a common prison, there to remain until their creditors received satisfaction for their demands. If the debt exceeded forty shillings, their case was still worse; for then they were arrested by the writ of the Court of Quebec, and from the remotest part of the province, transmitted, under custody of a deputy marshall, like felons, to the capital. As by the French laws, no process went against the person of the debtor until his chattels were found insufficient, and of these he was allowed time to make the most, at the proper season, by the merciful decree of his seigneur, it is difficult to conceive the misery and distress in which the poor Canadians found themselves involved by the operation of these new and unknown laws; and when to the afflicting circum-

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\* "Justice and Policy of the Quebec Act approved." London, 1774.



stances we have already stated, we add the enormous expense attending a process out of the Superior Court, executed at so great a distance, we shall cease to wonder that the Canadians are not in raptures with the English laws of arrest, and be less amazed at the obstinate prejudice they entertain for their own laws and customs."

These "suttlers" and "Indian traders" then were the chief materials for the formation of an aristocracy, introduced after the cession of Canada in 1763. The process by which the destruction of the French aristocracy was effected, is thus described by a Canadian writer:—"The English introduced among the population a spirit of traffic; they taught them to appreciate the advantages of individual wealth, and to feel that a man might be of importance although not descended from a noble race. The English traders spread themselves over the country, bartered and trafficked with the inhabitants, introducing new articles of luxury, and creating a demand for the various productions of the country. The *bourgeois*, or ignoble inhabitants of the towns, caught the spirit; laboured, and laboured successfully, to accumulate wealth for themselves,—and being a frugal and prudent race, they quickly found themselves possessed of fortunes more than sufficient to enable them to cope with the broken-down *noblesse* around them. They, therefore, began immediately to compete with this fading generation, both in political and social life."\*

The result of deprivation of office, united with the competition of the *bourgeoisie*, may easily be conceived. The new men became wealthy and powerful, whilst the *noblesse*, who disdained traffic, became miserably poor. Another cause of the decay of the *ancienne noblesse* was their neglect of the education of their children, whilst the *bourgeoisie*, having themselves acquired riches, sought out for the means of imparting instruction to their children; "by means of the seminaries of the province, their children received a fair and useful education, by, and of, the priesthood,—and were thus enabled to surpass their noble competitors in knowledge, as their fathers had before surpassed them in wealth." In this manner the only body of men bearing any the smallest resemblance to old-country aristocracies was completely and for ever swept away, and the authors of the Constitutional Act thus deprived of the means of realizing their golden anticipations.

To the "suttlers" and "Indian traders," described in the

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\* See "A Political and Historical Account of Lower Canada." By a Canadian. London, 1830.



first extract, and the enriched *bourgeoisie*, described in the second, another class of materials for a pseudo-aristocracy must be added, consisting of the banished officials and other "loyalists," as they delighted to call themselves, from the Old Colonies, after the declaration of independence in 1776. These persons, having by their representations been the chief instigators of the obnoxious measures adopted by the mother country with a view to coerce the United Colonies, were, of course, compelled to seek their safety in flight, the moment the oppressed colonists were driven to open resistance. They very naturally sought an asylum in the colonies which remained, where, by a continued clamour about their sufferings and loyalty, by a claim to compensation for the losses which they were supposed to have sustained, and a reward for their adherence to the "loyal" side in a quarrel which they had really been the chief means of generating for their own selfish purposes, they soon succeeded in obtaining a large share of such offices as became vacant, or were created, in the province of Quebec. In this manner the classes we have mentioned, differing from each other only in the way in which they were respectively called into existence, united to form a kind of petty local oligarchy, who shared, with some few scions of the English aristocracy, nearly all the administrative, judicial, and legislative offices, including the Council of Quebec, established under the acts of 1774.

When the Constitutional Act of 1791 was carried into operation, the Legislative Council was necessarily chosen out of the above class; in fact, there was no other class out of which an "aristocratic branch" of the legislature could be chosen. The Executive Council, a kind of permanent privy-council, to advise the governor, was nothing more than the old Council of Quebec under a new name. The members of this council had the ear of the governor; and, as their advice has generally been taken in the filling-up of appointments, as their influence over each succeeding governor has been great, they have of course contributed more than any other body to the perpetuation of power in the hands of the local oligarchy,—in other words, their own class.

To detail the manner in which this perpetuation of official power has worked, up to the present day, in both the Canadas, would require a very large space indeed; we shall therefore content ourselves by exhibiting some of the most striking mischiefs, giving the preference to those for which we have warrant in parliamentary documents.

In 1833 and 1834, Mr. Hume, to whose exertions in the cause of good colonial government, Canada, especially the Upper



Province, is greatly indebted, moved for the production of certain papers relative to the Legislative Councils of the two provinces. These important papers\* form the ground-work of the statements which we are about to make, aided by some of the works at the head of this article.

The Legislative Council of Lower Canada consists of about thirty-five members; of these a very large majority consist of persons belonging to the official or *bureaucratic* party, as it is called in the town province. The minority, "coinciding with the views of the Assembly," does not exceed five or six persons, who were introduced evidently for the purpose of making a show of carrying into effect the recommendation of the Canada Committee of 1828, that popular persons should be introduced into the Council. Among the members of the Council are several lucrative place-holders. The Chief-Justice is a member, so also are two or three of the judges. These last have not attended of late; but there they are, having the legal right to sit, and ready to attend the moment their presence may be of vital importance to their class. Besides these, there are some members of the Executive Council, the Bishop, the Commissioner of Crown Lands (an alleged delinquent under suspension), the Receiver-General, an ex-receiver-general (*a proved* delinquent), the Commissioner of the Jesuits' estates, and some others.

The Executive Council consists of eight members, six of whom hold office, and two are legislative Councillors. But, as if all this were not enough to beget a perfect identity of interest between the two Councils, there is a sort of mutual accommodation in the way of appointing clerks. Two of the members of the Legislative Council are clerks of the Executive Council, whilst two executive Councillors are clerks of the Legislative Council.

In Upper Canada this monstrous state of things exists with equal force, but with some few modifications of detail, which it is not necessary to enter into in this place: suffice it to say, that the oligarchy is of an equally odious character in both provinces.

The nest-feathering propensities of these official personages require now to be exhibited. In Lower Canada the Chief Justice and his family actually swallow up about one-thirtieth part of the whole revenue of the province. The following is a list of the family and the offices they hold:—

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\* See Sessional Papers, No. 433, 25th June, 1833, and No. 149, 24th March, 1834.



1. Jonathan Sewell, Chief Justice	-	-	£1,500	
Ditto, Speaker of the Legislative Council			900	
Ditto, Circuits	-	-	50	
2. Wm. T. Sewell, Sheriff, son of No. 1			1,500	or 2000
3. Edward Sewell, son of No. 1, Missionary			200	or more
4. John Sewell, son of No. 1, Usher of the Black Rod	-	-	180	
Ditto, Postmaster	-	-	400	
5. Henry Sewell, son of No. 1, Reading Clerk of the Legislative Council		-	200	
6. Montague Sewell, son of No. 1, Extra Writing Clerk to the Legislative Council	-	-	100	

No. 5 succeeded his brother Robert, who died. There is yet another son to be provided for; the grand-sons of No. 1—the sons of Nos. 2 and 3—who are married, will require the fostering *grand*-parental aid of this prince of official nest-featherers.

We shall not trouble the reader with any other list from Lower Canada; suffice it to say, it might be swelled with the Smiths and the Bowens, and the Coffins, and the Cochrans (one of whom enjoys four or five paid offices), all well known Colonial names.

Let us now exhibit a sample from the sister province:—

1. D'Arcy Boulton, sen., a retired pensioner	£500
2. D'Arcy Boulton, jun., son of No. 1, Auditor-General	- - - - unknown
3. William, son of No. 1, Church Missionary and Professor of King's College	- 650
4. George, son of No. 1, Registrar of Northumberland	- - - - unknown

(Another son, Henry, was Attorney-General with about 2,500*l.* a year, but was deprived of his office by Lord Ripon. He is now Chief Justice of Newfoundland, where his conduct has created universal disgust.)

5. John Beverly Robinson, son-in-law of No. 1, Chief Justice and Speaker of the Council	- - - - 2,066
6. Peter, brother to No. 5, Commissioner of Crown-lands, Executive Councillor, &c.	750
7. William, brother to the above, Postmaster of Newmarket	- - - - unknown
8. Jonas Jones, son-in-law to No. 1, Judge of three District Courts, with other offices	- - - - 1000



9. Alpheus Jones, brother of No. 8, Collector of Customs at Prescott—Postmaster -	900
10 and 11. Two other Jones's holding offices, the incomes of which are - - -	unknown
12. Levius Sherwood, brother-in-law to the Jones's,—Judge - - - -	1000
13, 14, and 15. Three other Sherwoods, all holding offices, but whose incomes are	unknown.

This list might be swelled to upwards of forty individuals all in some way either directly or indirectly connected with each other. A writer on Canada observes :—

“ This family connexion rules Upper Canada according to its own good pleasure, and has no efficient check from England to guard the people against its acts of tyranny and oppression. It includes the whole of the Judges of the Supreme, Civil, and Criminal Tribunals—all active Tory politicians. . . . . It includes half the Executive Council, or Provincial Cabinet.

“ It includes the Speaker and eight other Members of the Legislative Council.

“ It includes the persons who have the controul of the Canada Company's monopoly.

“ It includes the President and Solicitor of the Bank, and above half the Bank Directors ; together with shareholders, holding, to the best of my recollection, about 1,800 shares.”—*M'Kenzie's Sketches of Upper Canada*. Wilson, p. 409.

The manner in which the members of the Canadian oligarchy procure large grants of land will be well exhibited by the following case :

Wm. B. Felton	-	-	-	-	14,141 acres.
<i>Children of Ditto.</i>					
William	-	-	-	-	1000 acres.
Eliza	-	-	-	-	1200
Charlotte	-	-	-	-	1200
Fanny	-	-	-	-	1200
Maria	-	-	-	-	1200
Matilda	-	-	-	-	1200
Louisa	-	-	-	-	1200
Octavia	-	-	-	-	1200
					<hr/> 23,541 <hr/>

It would puzzle any one to discover what service Miss Fanny, or Miss Matilda, or Miss Octavia, an infant at the time of the grant, had rendered to the people of Lower Canada, that they should be thus rewarded out of what should be the chief resource of a new country.



Among the official persons thus possessed of the governing power, the most perfect irresponsibility prevails. No delinquency, however atrocious, meets with punishment. The public robber is not merely screened from justice, but the mere fact of a public accusation is sufficient to render the object of it a mark for honours and consideration from his class. The person above named, Felton, was proved to have procured some 8000 or 10,000 acres of his land by fraud and deception, and so clear was the case that it became impossible for the government to screen him. Nevertheless, his compeers regarded him as unfortunate, not criminal. They are, in fact, in open war against society in Canada, and a case of detection excites their sympathy not their condemnation. They regard him as a band of pickpockets regard a detected fellow, merely as being "in trouble." If they have a feeling at all disadvantageous to the delinquent, it is similar to that of the Spartan boys. A Sir John Caldwell, some few years since, when Receiver-General, got in arrear to the extent of several hundred thousand dollars (the debt amounted in 1835 to 600,000); that he was deficient was long suspected by the Assembly, but he was protected by the Governor Dalhousie, on the plea that he was not the officer of the Assembly, but of the Crown; and, therefore, the Assembly had nothing to do with the matter. At length there was not money to pay some small warrant, although there ought to have been more than 100,000*l.* in the chest; hence an *exposé* was necessary. The Assembly now reminded the Governor of his plea: "He is the officer of the Crown," said they, "therefore the Crown must bear the loss;" but the argument was not intended to cut two ways. The people have never had redress, and the delinquent ex-receiver has been ever since one of the brightest ornaments of the mimic Court of the Château de St. Louis.

In most cases where a delinquent official is to be screened from punishment the local oligarchy has the support of the Colonial Office, but the cases are numerous in which protection has been extended to a delinquent or obnoxious official even by the Governor himself, in direct opposition to the Colonial Office. The following is a most striking case:—

In 1834, the Governor, Lord Aylmer, appointed, as *puisné* Judge, a person named Gale, who had rendered himself extremely obnoxious to the people of Canada as the violent partizan of Lord Dalhousie. The second petition complains "that the sacred character of justice had been polluted in its source by the appointing to the high office of Judge of the King's Bench for the district of Montreal, a violent and decided partizan of the administration of the Earl of Dalhousie, and the declared enemy of the laws he is sworn to administer." This Gale came to



England in 1827, and gave evidence marked by such bitter animosity towards the people of Canada, that it was generally understood a mark was set against his name at the Colonial Office. This, at all events, is certain, that Mr. Rice, when Colonial Minister, refused to allow the appointment. Now let the reader mark the conduct of Lord Aylmer, backed by the whole official class. The official dispatch of Mr. Rice was sent to Lord Aylmer just before the Whigs went out of office. It was forwarded by the Post-office packet from Falmouth. The news of the Tories being again in power went out by the New York packet. Now it so happens that the government conveyance is usually some three weeks behind the New York packet-ships,—it would be undignified on the part of a government packet to emulate the hurry of a vulgar trader. Hence, at the time Lord Aylmer received Mr. Rice's commands, it is more than probable that he was aware of the change of ministry, and the wily Lord hesitated not to disobey the orders of his fallen master. Lord Aberdeen of course approved of the above conduct, and Mr. Gale continued to enjoy the office.

When the Whigs again came into power the Colonists began to felicitate themselves with the idea that Mr. Rice's dispatch would be at once fulfilled. But they were doomed to be disappointed; the government, with what appears to us an unaccountable want of dignity, remained quiescent, and the obnoxious judge is still upon the bench.

We shall not at this moment distract the reader by continuing an enumeration of the manifold acts of insolence of which the officials are constantly guilty, not merely towards the people of Canada, but towards the Imperial Government; but shall proceed to the consideration of the most potent evil springing out of the legislative power possessed by this party.

The Legislative Council—the mimic House of Lords—the Canadian second Legislative Chamber, is, as we have seen, composed almost entirely of the official party, without the most indirect or remote responsibility to the people, and having but small sympathy with them. The Assembly, on the other hand, is the people's house, not merely *nominally*, but substantially, representing the masses by a suffrage really and practically universal. This franchise is conferred by the possession of a forty-shilling freehold, and where one hundred acres of land can be had in the seigneuries by *asking for it*, and in the townships for an instalment of five pounds, no man of full age need be without the franchise. The consequence of this extensive suffrage, united with the social equality of the people, is that the Assembly of Lower Canada is essentially a democratic body—



more so, perhaps, than any one of the representative Houses of the individual States of the Union. Can a house so constituted possibly agree with a Legislative Council which is merely the stronghold of a band of irresponsible officials? Evidently not. There must be perpetual disagreement between the two branches of the Canadian legislature.

And how does this disagreement between the Council and the Assembly make itself manifest? In the same way that disagreement occasionally rears its head between the Commons and the Lords of this, the mother country—by the rejection by the Council of measures which have been passed by the Assembly in obedience to the wishes of the people,

The pamphlet entitled “The Last Session of the Provincial Parliament of Lower Canada,” which we have placed the fifth on our list, exhibits a frightful example of the “obstructive” character of the Canadian Legislative Council. In fourteen years the number of bills passed by the Assembly, and rejected by the Council, was no less than *two hundred and sixteen*, besides which, *eighty-six* were so altered as to insure their final rejection by the Assembly. This makes no less than *three hundred and two* bills lost in fourteen years, in consequence of the obstructive character of the Legislative Council. Speaking of the Session 1835-6, the author of the pamphlet just quoted, a member of the Lower Canadian Assembly, says:—

“Of 107 Bills sent up to the Council, thirty-four, or nearly one-third of the whole, have never been heard of; and fifteen have been so amended as to be rendered utterly useless, if not worse than useless. Thus nearly one-half a session of five months’ continuance has been entirely destroyed, and the great expense of money and time which has been incurred by a protracted session, rendered utterly fruitless by what has now become a *systematic rejection* of measures required for the public benefit.

“If, on the other hand, we examine the labours of the Legislative Council, what is the most startling feature that strikes us? In a session of one hundred and forty-seven days that body produced *six* Bills, one of which was to amend a road act, and the other—worthy offspring of such a parent!—to repress *charivaris*! \*

“It is true that during this period they were not idle; they were busy destroying nearly one half of the bills which the people’s representatives had just passed; thus, in the words of Neilson’s Quebec Gazette in 1827, ‘turning against the country the power with which they were invested for its benefit.’ Thus affording an incontestible proof of unfitness for their trust, and of how strong is the necessity which exists of stripping them of their power, and disabling them, as we would public enemies, from perpetrating public mischief.”—*The Late Session, &c.* p. 3.

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\* The *Charivari* is a sort of marrow-bone and cleaver row in masquerade.



It would be quite impossible for us to enumerate the various bills of a beneficial character which have met with destruction at the ruthless hands of the evil-working Council; we shall, therefore, instance only a few of the most prominent.

The Canadian Assemblies are fond of assimilating their laws and institutions, as nearly as suits the circumstances of the country, and habits of the people, to British laws and customs. With this view they have repeatedly passed a bill to compel a member who shall accept an office under the Crown to go back to his constituents. This, our readers must agree, is a very salutary measure, yet the Council has always rejected it.

Another case in point was, "a bill for the better securing the freedom of elections, by the removal of troops from the places at which such elections shall be held." In both the Canadas the constitution-loving Englishman will be both astonished and disgusted by seeing armed troops paraded in the cities within sight of the polling-booths, and mixing among the voters as they proceed to the poll. In 1832, in the middle of the day, without any disturbance to justify such a proceeding, the people were fired on by the troops, by the order of a cowardly and cruel magistrate of the Council party. The Assembly very naturally desire to prevent a similar proceeding, and more especially to prevent a spurious return by means of armed intimidation. But the Council naturally attaches enormous value to the English bayonets generally, and especially as regards their "legitimate influence" at an election; hence the bill is regularly rejected. For the education of the people the Assembly has always shown itself duly solicitous. Its struggle against the Council on this score dates from a very early period. Various unsuccessful efforts had been made by the Assembly to establish elementary schools on the Scotch system, and especially in 1814, when a bill was introduced to give the people of the several parishes the power of assessing themselves, and of appointing trustees, but the Council interposed its blighting *veto*, and the children of Canada remained untaught. "Numbers of bills," says the author of the pamphlet which stands the fifth on our list, "to establish schools in the province were introduced after this, and rejected by the same Council, who would have no other act than the proselyting act of 1831, and the Royal Institution." (p. 12.)

In 1829, however, by dint of the most indomitable perseverance, the Assembly did procure the passing of an elementary school bill, and great indeed was the joy of the people. The same year 14,753 scholars were taught at these schools, and in 1835 they had increased to 37,658. Forseeing that, as the system worked, the act would require continual amendments, it



was unfortunately, as it happened, not made permanent, and in 1836 the Council would not renew it or substitute any other act for it. It consequently expired, and in one day upwards of 1,600 schools were shut up, and more than 40,000 scholars deprived of the blessing of education. The liberal newspapers came out on the day on which the act expired clothed in the insignia of woe. Such are the acts of a party whose perpetual outcry is, that the Catholic religion is the enemy of education !

Sometimes the interference of the Council is of the most paltry kind, as in the case following : — At the present time, barristers hold their commissions *during the pleasure of the crown* ; and they pay a fee of three guineas for it. The Assembly, wishing to amend this, passed a bill abolishing the above tenure, and reducing the fee to a trifle. The bill was never heard of when it got into the Council, “ It touched the pockets of the office-holders, by diminishing their fees ; and, as the council protect the office-holders against the people, and not the people against the office-holders, the bill was naturally thrown out.”

We shall pursue these details no farther. We have gone quite far enough to show that agreement between two distinct legislative chambers, composed of such opposite elements as those of Lower Canada, is and ever must be out of the question. The commons' house is essentially a democratic chamber ; the interests of its members are perfectly identical with those of the people, of which, indeed, they are a part. The members of the Council, on the other, have, or, what amounts to the same thing, fancy they have, interests opposed to the people. Hence they oppose themselves to the people as a governing oligarchy.

In this country we are beginning to experience the inconvenience of a second chamber so constituted as to have interests opposed to the Commons' branch. If our House of Commons were as completely democratic as the Canadian Assembly, what, in the language of party, is called *collision*, would be much more frequent than it now is. Before the passing of the Reform Bill, collision, as we now understand it, was never heard of. And why was it not ? Simply because the two houses had interests in common. The peers and their families returned, or rather nominated, a full majority of the House of Commons, so that the latter was wholly an aristocratic body,—a branch, in fact, of the upper chamber, under another name, the members being not necessarily endowed with titles. The Reform Act, though it did not destroy the aristocratic character of the house, introduced a new element, which so far altered the general tone of



that body, as to render it impossible for the party which sympathized with the upper house to carry on the government. Hence the party which had always, when out of power, professed some sympathy for the people, became possessed of the government; and, although their legislation has not been of a character to give unqualified satisfaction to the people, it has been extremely distasteful to the peers, and a collision has been the result. As the people obtain a greater degree of controul over the Commons' house—and obtain it they will—collision will become more frequent, and of a more serious character, until at length it will be impossible to carry on the business of legislation. The constitution will stop, and we shall witness a similar struggle to that which has so long prevailed in Canada—a struggle between the two branches of the legislature, the lower house embodying the opinions and wishes of the governed many; the upper, those of the ruling few;—a struggle, in short, between the two adverse principles of democracy and aristocracy.

We have no hesitation in saying that the real nature of the British constitution is generally much better understood in Lower Canada than in the mother country. In this country, it required the acute philosophy of a Bentham, to sift from the complicated mass called the constitution the true rationale of the harmonious working of the whole. It was to corruption alone that the boasted harmony was owing. In Lower Canada corruption never forced her way within the hallowed precincts of the Commons' house; hence the defective working of the machine made every one practically acquainted with its true nature. Mr. Bentham's *Fragment on Government* was published in 1776. One would almost suppose that the Canadian constitution of 1791 was intended to prove the soundness of that great and good man's views. As we must necessarily return to this constitutional point when we come to notice the recent debates in parliament, we shall content ourselves in this place with mentioning that the Assembly and people of Lower Canada regard the Council as the stronghold of corruption,—as acting as a "screen" (this is Lord Stanley's expression) between the people and the Imperial Government,—as being "at the root of all the evils (another phrase of Lord Stanley's) under which the people of Lower Canada have so long groaned;" and they have, therefore, repeatedly prayed, "that the Legislative Council, as at present constituted, be abolished, and that the people of this province be empowered to elect the second branch of the legislature in future, as the only means of producing that



harmony, without which internal peace and good government cannot exist.”—*Petition (second) of 1834*, p. 10.

Persons who are interested in misrepresenting the Canadians, are in the habit of alluding to the long list of grievances—the ninety-two resolutions, *each a grievance*,—of which the Canadians demand redress. It is here necessary to state that the people of Canada do not demand the redress of each specific grievance; they demand the power of remedying their grievances. Formerly, before their political education was much better than that of an English shopocrat or a French *épicier*, they did fall into the error of demanding the redress of each specific grievance; but they soon found that this plan would only involve disappointment,—that it would amount to a perpetuation of bad government. They perceived, that if the evil-working system were permitted to remain, a new crop of grievances would spring up as fast as those existing at any given time were removed. A demand consequently arose among them for a change of the system; and they now quote grievances merely as so many illustrations of the abominable and vicious system of which they seek the removal.

It may be here proper to mention, that they were probably led into this enlightened course by a most able article which appeared in the *Westminster Review* for July 1827, in which the Legislative Council was pointed out to be the source of the misgovernment, and, consequently, the object upon which the Canadians should make their attacks. This article is well known to have been written by Mr. Roebuck, and it certainly gave a new turn to the views of the leading Canadians. Mr. Roebuck recommended the total abolition of the Council; but, from motives of policy, or, perhaps, from a habit of regarding the institutions of the United States as the foster parent of happiness, the demand of the Canadians has hitherto been for an elective council similar to those which existed in the old colonies, under the charters granted by the House of Stuart. In the evidence of Mr. John Neilson, one of the Canadian delegates, in 1828, we find an elective council recommended as a remedy for the then existing discontent. From that time forward it became the theme of discussion in the colony: and in the early part of 1834 it became the subject of the prayer of the Assembly in their petition to the imperial parliament.

This is the great *radical* reform which the people of Canada wisely consider would enable them to take into their own hands reform in detail. There is no evil that presses upon them which a legislature in harmony would not be competent to remedy. The governor, the representative of the imperial government, it



is true, would still possess a veto; but the people feel, that when removed from the blighting influence of the local oligarchy, the governor would have no interest against the people: he would govern, with the Assembly, for the people, and the veto would be rarely exercised.

For this single reform, the Canadians would compromise all other considerations, would silence all other demands; but at present there are three evils of which they complain, and demand the removal, distinct from reform of the Council:—

1. They demand that they be protected from the constant seizure of their revenues by the local administration; and that the legal right of the Assembly to a perfect controul over expenditure be held inviolate.

2. They demand to be protected against the interference of the Imperial Government in their local affairs; and that the Tenures Act and the Land Company's Charter, which are gross cases of such undue interference, be repealed.

3. They demand complete parliamentary controul over the waste lands.

I. The history of the financial difficulties of Lower Canada presents some very remarkable features. When the Canadian legislature was first called together, the whole of the revenues of the province were placed by Lord Dorchester, the then governor, under the controul of the Assembly; and the claim which has been subsequently set up by the official party to a portion of the revenues, was an *after thought*, arising from a desire on the part of the said officials to render themselves independent of popular controul. During the first years of the Canadian Constitution, the local revenues were not sufficient for the expenditure, and there was a balance voted by the Imperial Parliament. Of this sum the local authorities had the controul; and, as the Assembly did not at first understand its own functions, all appeared tolerably quiet. In 1810, however, the provincial revenues had increased to a point sufficient for the expenditure, and the Assembly offered "to pay their own civil expenditure." Will the reader believe that this offer was treated by the official party as treasonable? The gentleman who made the proposal, Mr. Bedard, afterwards raised to the Bench, "a man distinguished for ability, singleness of heart, and a devoted attachment to constitutional principles, was, with some of his supporters, lodged in the common gaol for the district of Quebec." The Assembly, however, prevailed. They obtained the privilege of paying their own servants, and with it the power of controuling them. This was the sore point with the officials: they have



never got over it; and the whole of the financial difficulties which have subsequently occurred, have arisen solely out of the writhings and contortions of the officials to avoid responsibility, and to make themselves independent of the commons' house. In this effort they have unhappily been seconded by the Colonial Office.

The first scheme of the official party was to procure a vote of supplies *en bloc*, in a lump sum, with the intention of dividing it according to the approved English method,—the lion's share to the strongest. This scheme failed. They then demanded a permanent civil list. This also failed repeatedly, until the time of Lord Dalhousie, when the demand was changed for a civil list during the life of the king. This, said the officials, is the English custom, and all loyal people should love English customs. The officials forgot, however, that they told only *half the story* about English customs. In England the civil list is granted for life, in return for certain revenues which the king gives up. The officials said nothing about this return—this *quid pro quo*. This consideration being wanting, to have granted a permanent civil list would have robbed the Assembly of all power. It was accordingly refused; and the Assembly have ever since persisted in their demand to control expenditure.

Besides the schemes to avoid responsibility above enumerated, another plan of the officials has been to lay claim to certain revenues, pretending that they are the property of the crown, and not of the people. They laid claim, for instance, to certain duties, because they were called “crown duties,” and were levied under the authority of an imperial statute. On this point, however, the Assembly succeeded in establishing their right, which was confirmed, *not created*, by a statute of the first year of the late reign. Foiled here, the official party continued to lay claim to what is called the casual and territorial revenue. But recently all these claims to partial revenues have been rendered unimportant by the seizure of the public revenues, and the payment of the officials, by the authority of the Colonial office.

II. The interference of the Imperial Government in matters purely local, has given the greatest possible disgust to the Assembly and people of Lower Canada. The Tenures Act was one of these. It was objected to as interfering with a large class of rights, such, for instance, as those of minors and married women, and producing the greatest possible disturbance and difficulty. If it were intended to render rights insecure, and to generate litigation, the act was certainly well contrived. The Canadians contend, that concerning so purely local a matter as



the tenure of land, with all its incidents, the Imperial Parliament is not competent to legislate. If legislation be attempted in ignorance, it must be fraught with error, and therefore with mischief; and it is for the reason that none but a local assembly can know aught of such purely local matters, that they demand a full recognition of the principle of non-interference.

The charter of the British American Land Company is another case of interference of which they complain. The Colonial Office, with an inexcusable disregard to the interests of the colony, transferred to the above company a large portion of the lands of Lower Canada for a mere trifle. Now, with good management, the lands of a new colony may be made to pay not merely all the civil expenses of the government, but also to provide means for educating the people, and of carrying on public improvements. By the improvident act of the Colonial Office, this source of revenue has been cut off, having been transferred from the people, to whom of right it belongs, to a set of rapacious speculators. The Assembly have formally demanded the repeal of this Act, and have declared, that not only will they never sanction the company, but that they will confiscate the lands of the company, whensoever they have the power.\* The late Assembly of Upper Canada also carried a very strong resolution against the Upper Canada (Land) Company.

III. Control over the waste lands necessarily follows, as a demand, after that for the repeal of the above acts. The people of Canada perceive that the sale of the public lands would supersede taxation, whilst at present they are used by the executive as a means of corruption, and by the officials as an object of plunder. There is scarcely a single official personage who does not possess large domains. A specimen of this we have already given in the case of Felton.

We have now completed our picture of the state of misrule in Lower Canada, up to the time the people became convinced that the parent of the evil was the Legislative Council, as then and at present constituted. We have now to mark down the subsequent course of events.

We may here mention, that it has been objected against the Canadian Assembly that their animosity towards the Council is of recent date, and that the time was when they desired no such constitutional change as that which they now demand. This objection appears to us to be frivolous in the extreme. It is a

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\* The opposition of the Assembly has not been without its effect. The shares of the Company are at 8*l.*, the sum paid in being 18*l.*



patriots; and Providence, as if intentionally, has this year sent us a most abundant crop.

“ The tobacco of this province, and of Upper Canada, is fortunately of excellent quality; not a pound of that which has passed the custom-house will a single Canadian use.

“ Our country traders (*Marchands*,) have sworn the destruction of this same infamous custom-house, the fruitful source of our woes, and the succour of our persecutors. The smuggler—the hearty contemner of the line 45 degrees,\* we shall henceforward regard as our saviour, and encourage by every means in our power. Recently we learn that there has been illicit importation of tea and tobacco, to a considerable extent, on the Chambly river—with this importation the duty-paid articles cannot compete, they will remain like drugs in the importers’ stores. Instead of being regarded with an evil eye, the smuggler will now be regarded as the best friend to his country.

“ Home-made cloths and other fabrics (*étoffe du pays*) of all kinds, will now be our only wear; to be seen in a coat of English cloth will be deemed disgraceful, and I am assured that throughout the country our patriotic women are busily employed manufacturing for our exigencies.

“ We are determined to punish our enemies here, and their dupes on your side, at the sole points where they are vulnerable—the *purse*.

“ In addition to this, there exists throughout the country a very powerful determination to refuse the notes of the Montreal and City Banks, and to encourage those of the People’s bank, for the simple reason, that the two first are the strongholds of the party of our enemies. This is no idle threat, for on a former occasion an impression was made on the circulation of those banks to the extent of one-sixth in a few days: the hostility of the people to those banks will now be perpetual.

“ We are quite sensible that this cannot be done without some suffering to ourselves; but we have calmly made the calculation, and we have determined to make the sacrifice, in order to paralyze our enemies. This course has already succeeded once in America, and it will succeed again. Farewell. When next I address you, I may perhaps have more extraordinary things to record. I send you herewith some papers: our small differences we have forgotten—the *Canadian* and the *Vindicator*—the Moderates and the Ultras, are at peace, working in amicable emulation against a common enemy. Again, farewell!”

Of the revenue of Lower Canada, a large portion is derived from the duty on spirits; 1s. per gallon is collected on about 1,000,000 gallons of rum, and 1s. 6d. per gallon on 250,000 gallons of gin and brandy. A substitution of whisky and beer for these, would nearly destroy the revenue from this fruitful source. The Tory party in Canada make it a distinct charge against the people of that colony, that they are servile in their

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\* The boundary line between Canada and the States.



obedience to their leaders; and as some partial experiments of the kind have succeeded, we cannot doubt but that "passive resistance" in Canada, will be still more successful than it was in the old colonies (now the United States) in 1776.

How long the Canadians will be content with a resistance merely passive, it would be rash to say. A popular commotion generally happens from some apparently trifling circumstance, acting upon a people predisposed to a rupture with their rulers. The accidental collection of a crowd in a particular spot; the thoughtless act of an idle boy; the throwing of a stone or the firing of a pop-gun, are any one of them sufficient, under certain circumstances, to cause the standard of revolt to be raised. The events that commonly happen at a Canadian city election would, we are quite convinced, raise the banner of independence, even without a massacre of the people, similar to that which took place on the 21st May 1832, called by the Canadians *le jour du sang*. Of this we feel quite certain, that the people are predisposed to receive any accidental impulse towards independence. Their position, too, is in every respect favourable to such a movement. They have no enemy on their frontier, as the United Colonies had; neither have they a foe in their very bosom, in the shape of an enslaved labouring population. The provocation they have just received, may be considered by the more ardent of the Canadians to justify the employment of force, to emancipate themselves from the thralldom of the Colonial office. What, then, is wanting to induce an attempt at independence? We fear but one thing—opportunity, a favourable opportunity; and that, as we have already said, the merest accident may afford.

On the receipt of the resolutions in Upper Canada, a meeting of the great Political Union of that province was convened, and a series of resolutions, five in number, were passed, condemning the course pursued by ministers, and expressive of sympathy with the Lower Province. The whole are too long for our space; but we cannot refrain from copying the two last, as evidence that the people of Upper Canada are not what the Tories would wish them.

"4. That we owe a deep and lasting debt of gratitude to Sir William Molesworth, Bart. Jos. Hume, J. A. Roebuck, Daniel O'Connell, J. T. Leader, Esqrs., and the other talented and uncompromising defenders of our rights and liberties in the British House of Commons, during the important debate on the affairs of the Canadas, on the 6th and 8th of March last."

"5. That this Union deeply sympathize with the provinces of Lower



distinguishing feature of opinion, that it is progressive. This is especially conspicuous in England, where new demands for political changes, previously unheard of, spring up every day. A few years before the passing of the Reform Act, the disfranchisement of a few rotten boroughs, and the enfranchisement of a few large towns, would have satisfied the people for a time; now we are looking for most extensive reforms.

In the same way, it is quite true that the Canadians would have been satisfied, in 1836, with a reform which they would regard with scorn in 1837; and in 1837, with one which will fall far short of their advanced conceptions in 1838. In short, it seems that ministerial concession to revolted or discontented colonies is perpetually a little too late. The colonial minister of 1777-8 *conceded* the famous declaratory act; but the "States" were no longer within the reach of a British act of parliament; they had been coerced,—they had been forced into independence.

In 1828, the Canadians hailed the recommendations of the Committee on the Civil Government of Canada as "an imperishable monument." They did so, because one of the recommendations was to introduce liberal and independent men into the Council by means of a creation. Some few were introduced; but what could they do among a host of enemies? They did nothing, except to prove that the "recommendations" had never been attended to, or that if they had been, the scheme, as a means of producing good government, had proved itself utterly abortive. And it is this experience which has helped them to the conviction that the council must be rendered elective.

Having come to this determination, let us see what method the Canadian Assembly has adopted to bring about this reform. They have taken the advice of Lord (then Mr.) Stanley; advice gravely addressed to them in 1829, when that right honourable person was a Whig out of place. They have petitioned the Imperial Parliament and the Crown, and have resorted to the constitutional practice of stopping supplies in order to enforce their demand for reform.

In 1834, whilst their demand for an elective council was before a committee of the House of Commons, and whilst supplies continued thus stopped, came Mr. Rice into office. At that time two delegates from Canada, the Hon. D. B. Viger and Mr. Morin, M.P.P., were in England. A meeting took place between those gentlemen, Mr. Roebuck, and Mr. Rice, on which occasion Mr. Rice declared that he would do nothing to prejudice their case, or to interfere with the position which



the Assembly had taken up. What was Mr. Rice's subsequent conduct? The reader will scarcely believe, that only seven days after this promise, Mr. Rice penned a dispatch authorizing the Governor Aylmer to pay the officials to the extent of 31,000*l.*, out of the military chest; thus completely breaking down the position which the Assembly had assumed. Surely the inconvenience of the non-payment of the officials, however severe as individual hardship, was not a sufficient ground for interfering with the great principle which was at issue.

During the short administration of the Tories, Mr. Roebuck presented the second petition of the Assembly to the House of Commons, when Sir Robert Peel announced the notable expedient of a Royal Commissioner to be sent to Canada to enquire into grievances which had been already declared to exist by an Assembly (the highest authority which a country can possess) representing at least *eleven-twelfths* of the whole people. This was merely an expedient to create delay, and for all other purposes was absurd in a high degree. The new government, however, contrived to make it more so, by extending the commission from one to three persons, Lord Gosford, Sir Charles Grey, and Sir George Gipps, who reached Canada in the autumn of 1835, and remained in office till the beginning of the present year; Lord Gosford still remaining as governor.

What they did there may be learned in minute detail from Mr. Roebuck's pamphlet, quoted fourth at the head of this article, and also from their own reports. We can only find room for a general outline of the most important occurrences.

Before the commissioners left England, Mr. Roebuck, as agent to the Assembly, laid before Lord Glenelg a statement of the demands of that house. This statement was afterwards printed in Canada, by order, we believe, of the House of Assembly, and afterwards reprinted by Mr. Roebuck in the appendix to his pamphlet. The necessity for a radical change in the constitution of the Legislative Council is insisted upon; and Lord Glenelg is warned of the evil consequences of a denial of justice.

Mr. Roebuck's next step was to ask for a copy of the Instructions; but Sir Geo. Grey excused himself from laying them before parliament, on the plea that *respect for the Canadian Assembly* demanded that the instructions should first be communicated to that body. This was so plausible a reason that the demand could not be further pressed.

When the commissioners reached Canada, their conversation was wholly of "concession," and "liberality," and "reform." They were the "nominees of a reforming ministry." Lord



Gosford was "the friend of O'Connell." He was "convinced that his instructions would give satisfaction." The effect of this was that he met the Assembly enjoying its good will. A tolerably sure test of this is, that at that time he had the hatred of the colonial tories, whose papers abused him roundly; thus showing that members of the Assembly were not the only persons deceived by his professions.

When the meeting of the legislature took place, however, to the astonishment of the Canadians, no instructions were brought to light. The Governor's speech, though somewhat longer than common, dealt only in vague generalities, and was studiously silent on all the topics most interesting to the Canadians.

Disappointment and distrust were the necessary consequences of this unfortunate opening of the intercourse between the Assembly and the Executive, under the administration of Lord Gosford. As for the Commission, the Assembly never in any way condescended to notice it. From the Journals of the Assembly, it is very doubtful whether the future historian would be able to collect that such a commission has existed,—unless, indeed, Lord Gosford may charitably have rescued it from utter oblivion, by naming it in one of his Messages.

Finding, that notwithstanding the promise of Sir George Grey, the instructions had not been laid before the Assembly, Mr. Roebuck, on the 16th of Feb. 1836, again asked the Colonial Under-Secretary to produce them: but he again excused himself, on the ground that—"inasmuch as there was now a fair prospect of adjusting the differences between this country and Canada, he thought that while negotiations were pending, it would be extremely injudicious and might lead to great inconvenience, if the instructions given to the commissioners were to be made public." He also said, "that the House of Assembly had shown they *were actuated by the most honest and ardent wish to promote the interests of the Colony.*" This is not very wonderful, seeing that they are "the Colony," and cannot have an interest against it. Upon this appeal, Mr. Roebuck, of course, withdrew his motion.

But the real nature of all these excuses, and the extraordinary conduct of the Colonial Office, were doomed to receive a complete exposure at the hands of one of its own creatures. Sir Francis Head had just succeeded Sir John Colborne as Lieutenant-Governor of Upper Canada,—and on meeting the Assembly of Upper Canada, he had accompanied his own Message with extracts from the instructions of Lord Glenelg to the Lower Canada Commissioners; and this, notwithstanding the "great inconvenience," the "extreme injudiciousness" of making the



instructions public, and the propriety of first laying them before the Lower Canada Assembly. After this "untoward" blunder, Lord Gosford was compelled, with an ill grace, to communicate a full copy of his instructions to the Assembly.

The object of Lord Gosford had evidently been to get a vote of supplies from the Assembly; and to affect this, every effort was made to generate an impression that the Imperial Government contemplated some great and important concession, and thus to lull the generally watchful suspicions of the Assembly: but his scheme failed. The exhibition of the non-conciliatory instructions shut the door to any thing like confidence on the part of the Assembly towards the Governor, and all arrears which otherwise might possibly have been voted, were immediately refused. And here the Assembly exhibited one of those remarkable acts of forbearance which we sometimes witness on the part of popularly constituted bodies. In order to prevent undue embarrassments to the executive, *they voted supplies for six months*; but so short an allowance was not relished by the official party, and the bill was accordingly rejected by *their* house—the Legislative Council. Now was exhibited the vindictive and malignant character of that house, and the mischievousness of clothing such a body with such enormous power. They henceforward rejected nearly every bill that was sent to them, including the Elementary School Bill, to which we have already alluded. On the rejection of the School Bill, Mr. Roebuck remarks:—

"The party of the Legislative Council are usually uncommonly pathetic in their lamentations over the ignorance of the Canadian population. The true worth of their hypocritical whining is here made manifest. They talk of ignorance and deprecate it, so long as such talk forwards or seems to forward their paltry purposes. They willingly do all they can to foster and continue ignorance, the moment that by so doing the same vile ends may be served."—*Existing Difficulties*, p. 39.

The last bill passed by the Assembly was for the purpose of embodying their demand for an elective council in a shape convenient for public discussion, and distinct and unequivocal reference. Moreover, it served to point out to ministers a convenient mode of settling the disputes without the necessity of imperial legislature, namely, by what is called in this country *a creation*. Lord Gosford might have been furnished with a sufficient number of blank *mandamuses* to enable him to call to the Council a sufficient number of men favourable to the elective principle, to carry the Assembly's bill. This done, the other reforms which the people desire, and for the sake of which, and for the perpetuation of good government, an Elective



Council is deemed necessary, might be carried through both houses without any disturbance of existing forms. Even the repeal of those Imperial Statutes, which have given so much disgust to the Canadians—the Tenures Act, and the British America Land Company's Act of Incorporation, might be effected by the only body really capable of adjusting the matter with the least possible disturbance of existing interests.

It has been objected, that a Provincial Legislature is incompetent to repeal or amend an Act of the Imperial Parliament. To this it may be answered, that what has once been done may be done again. The right of the Canadian Legislatures to amend an Imperial Act, has been acted upon, and formally recognized by the assent of the King. The present Assembly of Lower Canada sits and exercises its functions in virtue of a provincial act—a species of Canadian Reform Bill—amending, in an essential particular (namely, the division of the province, and distribution and number of representatives), the Canadian Constitutional Act itself. The other Acts proposed to be dealt with by the local legislature should never have been passed. In giving a constitution to each of the provinces, all further interference ought to have been abandoned. Wherever interference takes place, it is nearly certain that it will be at the instance of an intriguing minority; hence discontent must be the result. To permit the Canadian Assemblies, therefore, to repeal or amend all Imperial Statutes relating to the local affairs of the provinces, passed since the date of the Constitutional Act (1791) would merely be the undoing of evil. If any part of an Imperial Statute had worked well, we may be quite sure that it would be retained.

We now come to the last Act of the Assembly, namely, their Address to the King and the two Houses of Parliament, carried on the 26th of February, 1836, by a majority of fifty-five to seven. This Address contains a reiteration of their demands;—for

1. An Elective Council:
2. The Repeal of the obnoxious Acts already alluded to:
3. Complete control over Revenue and Expenditure:
4. Complete control over the Waste Lands.

But the feature most worthy of remark in this address, is the solemn declaration of the Assembly, that redress of the grievances must *precede* a vote of supplies.

“We wish for a government,” says the address, “which shall assure us freedom and security; the unrestricted effect of Your Majesty's declarations can alone confer it upon us; and it will be when we possess it, and can entertain a hope of the removal of the grievances and abuses



we complain of, that we can properly consider the means of giving effect to Your Majesty's wishes with regard to an appropriation of a permanent nature."—*Petition, Feb. 1836.*

We now draw towards the close of the history of the question within the Colony. Lord Glenelg once more refused the just demands of the Assembly: on the 22nd of September last, the Legislature was called together to enable the governor to communicate that refusal,—when the Assembly voted an address to his Excellency, repeating the decision they had come to at the previous Session, namely, that the redress of grievances must *precede* a vote of supplies. This address was carried through its various stages by varying majorities averaging fifty-six to seven; and the House was dismissed after a Session of less than three weeks. They have not been called together since.

Turn we now to the state of the question in the mother country.

Hither the discussion was shifted by the publication of the Reports of the Commissioners, which were delivered to members towards the latter end of February. To give any thing like an analysis of so voluminous a document, or rather set of documents, would be quite impossible with our limited space, even were it desirable; we shall therefore merely state, in general terms, that the Reports signed by all the Commissioners do two things,—*first*, they decide against all the demands of the Assembly, against the clearest evidence of their just nature, and even against their own admissions; and *second*, they take the trouble to propose schemes which have been repeatedly proposed to the Assembly and have been invariably rejected by that body—we allude especially to Lord Ripon's plan to obtain from the Assembly a permanent civil list, without conceding the condition demanded by the Assembly, namely, the perfect responsibility of the parties included in the list, with the exception of the governor. This plan having been rejected by the Assembly with something like indignation,—it is certainly rather absurd to incur the enormous expense of the Commission merely to reiterate that proposal. Let the reader examine the reports through and through, and he will find the general result correspond precisely with the above character.

But there is one of the Commissioners who goes a point further and recommends something new; but, as he could not get his colleagues to agree with him, he has been compelled to set his single name against his own absurd crotchets. This one is Sir Charles Edward Grey, whose proposals are in the ultra-dominant spirit of Orangeism, namely, the wholesale nullification of the Assembly; the rendering of the Executive, that is



the public servants, wholly independent and irresponsible; in short, the complete submission of the majority to the sway of the minority.

One of the plans for rendering the many subservient to the few—for overwhelming the influence of the people in the election of representatives, is to be found at page seventeen of the general Report. It is this: he proposes to allow each elector to have *one vote only*, although the number of representatives to be chosen might be two, three, four, or even five. The result of this would be, that the majority, anxious to secure the return of the best man, would probably vote for him alone; or, at all events, their votes would probably fall on two at the utmost. The minority would then step in, and with a few dozen votes, would return their member or members. In this way there would probably be a majority of the Assembly elected by a miserable minority of the people. It would have the same effect as the exclusion of Catholics from the House of Commons had on Ireland. It would effectually deliver the people to the oppression of a minority, always tyrannical and cruel in proportion to its insignificance in point of numbers.

Now there is something both cowardly and dishonest in all these proposals, which have for their object the indirect destruction of a body which it is dangerous to attack openly. The existence of a democratic Chamber is either good or bad. The Canadians having had near half a century's experience in its working, think it good. We think it good also,—but we certainly should not feel disposed to quarrel with any man for thinking it bad. What we object to is pretending to laud the institution, and yet seeking at the same time to destroy it. If Sir Charles Grey think a democratic branch a bad thing, let him say so at once, and openly and honestly propose its annihilation. After the avowal of such opinions, our readers will not be surprised to find that Sir Charles Grey—the government nominee in Canada—is an avowed Tory candidate in the approaching election.

We have alluded to the admissions of the Commissioners in favour of the case of the Assembly and people of Canada. They speak of the necessity of reform,—they even admit the propriety of making the Council elective at some future day,—they admit the defective character of the present Council, and that it has not performed the high duties entrusted to it with justice and impartiality, “but still they cannot advise the experiment (of the elective principle) now.” But the most important admission, and that which tells the most completely in favour of the views of the popular party, is where the Commissioners show that the



disputes have nothing to do with the question of origin, as had been often alleged, but have reference solely to "popular rights."

The general statement of the Canadian official party was, that the quarrel was one in which the French majority were arranged on one side, and the British population, unfortunately a minority, on the other—the former numbering, according to the statement of the official party, 450,000, and the latter 150,000. Now, it so happens that several of the "British" constituencies return members who agree with the views of the majority; and an accurate calculation of the respective numbers of the opposite parties of the Assembly and population represented, makes the minority to consist of only 9 or 10 members out of 90, and under 50,000 people out of the above 150,000, though the members of origin other than French (chiefly British) in the Assembly, number 24 or 25. Thus, if the question of elective institutions were decided by the votes of those of British origin alone, it would be carried in the affirmative.

This popular view of the character of the dispute, the Commissioners confirm:—

"In the course of these protracted disputes, too," say the commissioners, "the Assembly, composed almost wholly of French Canadians, have constantly figured as the assertors of popular rights, and as the advocates of liberal institutions; whilst the Council in which the English interest prevails have, on the other hand, been made to appear as the supporters of arbitrary power and of antiquated political doctrines; and to this alone we are persuaded the fact is to be attributed—that the majority of settlers from the United States have hitherto sided with the French rather than the English party. The representatives of the County of Stanstead and Missisquoi, have not been sent to Parliament to defend the feudal system, to protect the French language, or to oppose a system of registration—they have been sent to lend their aid to the assertors of popular rights, and to oppose a government by which, in their opinion, settlers from the United States have been neglected or regarded with disfavour."

And, in further condemnation of the Council, the Commissioners add:—

"Even during our own residence in the province, we have seen the Council continue to act in the same spirit, and discard what we believe would have proved a most salutary measure in a manner which can hardly be taken otherwise than to indicate at least a coldness towards the establishment of customs calculated to exercise the judgment, and promote the general improvement of the people: we allude to a Bill for enabling parishes and townships to elect local officers, and assess themselves for local purposes, which measure, though not absolutely rejected, was suffered to fail in a way that showed no friendliness to the principle."



We now come to the discussions in the House of Commons. On the 6th of March, Lord John Russell, taking the matter out of the hands of the Under-Secretary for the Colonies, Sir George Grey, who throughout appears to have taken no very prominent part in the proceedings, brought forward ten resolutions, the objects of which were to make declarations against the reforms which the Canadians demand, and to warrant the seizure of the Colonial revenues in violation of the Constitutional Act, and therewith to pay the public servants of the colony, and thereby render them wholly irresponsible. It would be idle to waste our time with a discussion about legal rights, when Lord John's resolutions are wholly a measure of *might*. We cannot, however, avoid expressing our surprise, that Englishmen did not take alarm at the eighth resolution, which warranted the seizure of the money, and the consequent nullification of the popular branch of the Legislature. That resolution appears to us to involve principles which, if extended to the mother country, would be wholly subversive of the constitution. We confess that it is a matter of surprise and regret, that of the liberal party only sixty members could be found to stand forth in defence—not simply of Canadian liberty—but of an important principle of universal application. The leading Irish members, we rejoice to add, nobly did their duty.

All that men could do in opposition to such an overwhelming force of numbers, was done by the small but energetic minority. No one can read the proceedings without perceiving how completely the talent, and especially reasoning, was on the side of the friends of good government. Considering the numbers, never perhaps was a question better fought in that House; and we have no hesitation in saying, that, as a political party, the Radicals acquired consistency and strength by the debate. After two nights' work in March, the debate was postponed, for the printing of the evidence delivered before a Committee of the House in 1834. This pushed the question past the Easter adjournment, and the debate was not again renewed till the 14th of April. On that night, Mr. Roebuck came down to the House with a proposal, which appears to us calculated to allay all discontent in the colony, by establishing such a system of government as would leave the Canadians nothing to desire, and to perpetuate the Colonial connexion by the generation of contentment and satisfaction in the colony. We shall now endeavour to explain this plan in an abridged form, suited rather to our limited space than to the subject itself, which certainly deserves to be treated at greater length. Mr. Roebuck's proposal comprised the following heads:—



1. To abolish the present Legislative Council, which had been condemned at all hands—by the colonists themselves, by the commissioners, by the speakers in debate, and by Lord John's own resolution.

2. To erect an Executive Council, removable by the Governor, of twelve persons, of whom the Attorney and Solicitor-General should be two.

The functions of this body we must describe in the language of Mr. Roebuck:—

“The functions of this council, as respects legislation, I can best describe by following a measure through its several stages. First, a bill is brought in and passed by the Assembly. It is then sent to the Governor in Council. It may then be amended or not. If not amended, it is then forwarded at once to the Governor for his assent or veto; but if amended it is sent back to the Assembly. They either adopt or reject the amendments; and in either case the bill is now to be sent at once to the Governor, and not to the Governor in Council. And on the Governor rests the ultimate responsibility of accepting or rejecting the measure. I must here guard myself against misconception. It must be carefully borne in mind, that no power of rejecting any measure is given to the Governor in Council. That body can only amend—it cannot reject. This is a matter of vital importance—so important that if such a Council should be created, and the power of rejection given to it—no satisfaction could be given to the people, who are now discontented: the grand object of my plan is to concentrate responsibility, and to bring it to bear upon known individuals. The Governor is he whom we seek to render circumspect and careful, and no subterfuge can be admitted by which this object can be protracted.”

To those who are acquainted with the character of Mr. Roebuck's highly cultivated mind—and what intelligent newspaper reader is not?—it is unnecessary to say that the honourable gentleman supported his plan by the most luminous and unanswerable reasoning. There is no point left untouched—no objection left unanswered—and the reader will rise from the perusal of the speech, impressed with a conviction, that, in neglecting the suggestion, ministers have lost an opportunity for the pacification of the Canadians, which may never again be offered to them.

Nothing, indeed, in the shape of an answer was attempted. Ministers seemed to admit that the plan was good. Even the ministerial organ—the *Morning Chronicle*—after condemning Mr. Roebuck's indiscretion (in what did not appear) winds up with a short paragraph, stating that the plan was unobjectionable. Why not adopt it then? Ah! why not, indeed? That is a question which would really puzzle a conjurer.



Another, and not an unimportant, part of Mr. Roebuck's plan, was an extension of that of Lord John Russell—we mean that in which a sort of congress of delegates is proposed to be assembled at Montreal. Lord John proposed a committee of the two legislatures of Upper and Lower Canada to meet at Montreal, to take cognizance of disputes between the two provinces. This would have been utterly useless, as the disputes in question (about the division of the revenue) never amounted to an inconvenient pitch, and were always satisfactorily settled by the commissioners named by both provinces. Mr. Roebuck's congress, however, would have been of a more useful character.

"I propose," said Mr. Roebuck in his speech of the 14th of April already quoted, "I propose that a general Assembly should sit, I care not where, but say at Montreal, composed of delegates chosen by the Assemblies of Upper and Lower Canada, Nova Scotia, New Brunswick, Newfoundland, and Prince Edward's Island. Each province should send five delegates, and the general Assembly should represent the various colonies thus electing them. The term for which the Assembly should exist should be four years. The most difficult matter connected with this body would be the describing, and accurately defining, its separate powers and duties.\* Those ought to relate to two distinct subjects. This general Assembly ought to be both a judicial and a legislative body. The judicial functions ought to be two-fold—1st. It ought to constitute a tribunal before which the judges might be impeached, and out of the Assembly a court composed of not more than three members might be constituted. Secondly, a Court of Appeal, to perform all the judicial functions now exercised by our Privy Council. It would be difficult to describe accurately and clearly the precise extent of these judicial powers, and the manner in which they were to be exercised. A law of impeachment would be required, together with a code of procedure; but no difficulties of any moment will here obstruct the path of the legislature. If this tribunal were created for the trial of the delinquent judges, no difficulty would arise in granting them salaries for a term of years."

This would settle all the difficulties about the responsibility of the judges (now holding office during pleasure!), impeachments, and a permanent civil list. It would erect our colonial government on something like a solid and permanent basis; and yet the whole scheme, praised by nearly all parties, was rejected on a mere quibble. The opposition of both sides of the House resolved itself to this—"the Member of Bath has made what seems to be a wise proposal; but we do not know that the

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\* In the Free States of America, no difficulty arises from this source. The rule is, that powers not delegated to the Congress, or the general Government, are retained by the several sovereign states.



Assembly would acknowledge it; therefore, let us reject this measure of pacification, and pursue our own coercive measures." Accordingly, the House did the will of the ministry, and carried the fifth resolution.

On the 21st, Mr. Leader put the House into something very like a dilemma. In an excellent and argumentative speech, the Honourable Member said this:—"You say, my friend Mr. Roebuck's plan is good, but that you have no assurance that it will please the Assembly of Lower Canada. Well, then, wait six months, in order to ascertain their views." But this would not suit Lord John and his anti-Canadian supporters. Like Sterne and the poor mendicant Franciscan, they had *predetermined* the case. They accordingly rejected Mr. Leader's proposal, and that very night affirmed all the resolutions. And there the matter now rests (we write on the 22nd May) on this side of the Atlantic.

We must now carry our readers once more to Canada. The delay which has occurred in getting these coercive resolutions through the two Houses of Parliament, has enabled us to hear of their reception in Lower Canada. We have in our possession Montreal newspapers to the 24th of April, in which the debate of the 6th and 8th of March is published. These papers unfold a portion of the plan which the Canadians have at once determined to adopt, to meet, and, as far as lies in their power, to counteract, the coercive measures of the British Government. This plan is precisely what Mr. Roebuck predicted in his reply, on the 14th of April. It is similar to that which the old colonies adopted under similar circumstances; it is comprised in two words—*passive resistance*!

A letter has been published in the *True Sun* newspaper, explaining the course which the Canadians intend to pursue; and as that letter is from a source worthy of credit, we shall here transcribe it:

"Extract of a letter dated Montreal, April 23, 1837:—

"Lord John Russell's coercive resolutions have aroused universal indignation in this province, and the result is a very general determination to consume nothing which contributes to the revenues, which your infamous minister proposes to seize.

"For rum and brandy, which now contribute so largely to the revenue, we shall substitute whisky and beer. Tea we shall replace by coffee, made of barley, beans, and crust of bread, which our physicians declare to be more wholesome than tea, which our excellent wives now patriotically discover to be weakening to the nerves and to the stomach,

"The sugar of the maple will alone enter into the house of the



Canada and Nova Scotia in their present difficulties, and that they await with deep anxiety the action that may be had thereon, by those patriotic and long-suffering people."

We cannot close this article without stating, that the other British North American Colonies are also at issue with their respective local oligarchies. Nova Scotia has just passed a series of resolutions, the last of which is in favour of an elective council. Newfoundland, in its demands for reform, makes an elective council a *sine quâ non*. Prince Edward's Island has also pronounced herself in favour of the same wholesome measure. All these colonies have serious differences with the ruling power. In New Brunswick, we are not aware that the elective council question has been broached; but of this we are quite certain, that New Brunswick is highly discontented, and has lately succeeded in driving an obnoxious governor out of the colony.

Here, then, we have *a million and a half of people*, ripe for revolt—a number not very far short of the population of the old colonies, when "the troubles commenced," and yet our ministry, with Tory obstinacy, seems determined to bring about a similar result.

Separation is perhaps a contingency inseparable from colonies; but there is no reason why it should be violent. A wise minister would establish such a colonial government, as would insensibly lead to independence. For this sacred purpose what so obvious as institutions purely elective? Not that independence would so soon occur, as in consequence of a system of coercion. The duration of the colonial connexion will be in the inverse ratio of imperial interference, and it might be almost perpetual, by leaving the colonists entirely to themselves.

We now close this somewhat long article, by declaring our solemn opinion, that unless ministers entirely abandon their system of colonial policy, they will one day be surprised by the apparition of LE JEUNE CANADA.\*

\* *Postscript to ARTICLE IV, page 113.*

Since the article on Canada was sent to press, we received six weeks later intelligence from Canada, our advices now reaching the 9th of June.

The determination announced in the letter dated 23rd April, and printed at pages 110-111, has been very generally acted upon. During the interval in question, the whole country has been in a state of extreme agitation. Numerous county meetings have been held, denouncing in the strongest terms the government measure, and pledging themselves to resist by every means in their power.



The proceedings of all these county meetings are nearly of the same tenour.

They declare, that from this time forward, the connexion of Canada with the mother country is one of *force* only. That they will do all in their power to bring about the independence of the Colony.

They pledge themselves, and they earnestly recommend their fellow citizens, to abstain from the use of all those commodities which bear a duty, and so afford a revenue to the government.

They declare the smuggler worthy of the good opinion and gratitude of his fellow citizens, and they denounce as base, infamous, and deserving of the execration of the country, all who inform against the smuggler.

At one meeting, that of the County of Two-Mountains, a smuggled tea-chest, a home-made whiskey barrel, and some smuggled tobacco, were carried in the procession, with appropriate banners, and not a revenue officer dared to interfere.

Numerous county meetings are still announced.















